HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.8226 of 2007

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Between:

Federation of Minorities Private Institutions,
Hyderabad, represented by its Secretary. …Petitioner

And

The Government of Andhra Pradesh,
represented by its Principal Secretary,
School Education Department,
Secretariat, Hyderabad and another. ….Respondents.

:: O R D E R ::

Counsel for the petitioner : Sri Mohammed Abid Ali

20th April, 2007

Per G.S. SINGHVI, C.J.

In this petition filed as a piece of public interest litigation, Federation of Minorities Private Institutions, Dabirpura, Hyderabad (hereinafter described as 'the petitioner') has prayed for issue of a

mandamus to the respondents to appoint 20,193 Teachers and also pay salary to the Apprentice Teachers in regular pay scale.

A perusal of the record shows that in June, 2006, Commissioner and Director, Department of School Education, Andhra Pradesh (respondent No.2) advertised the posts of School Assistants, Language Pandits, Secondary Grade Teachers and Physical Education Teachers in Government, Zilla Parishad, Mandal Parishad Schools of the State. The written tests were conducted on 29th, 30th and 31st August, 2006. The remaining part of the process of recruitment is yet to be completed. The grievance of the petitioner is that even though more than 20,000 posts are vacant, the respondents are not sincere in completing the process of recruitment and, on that account, the students are being deprived of their right to education. Another grievance of the petitioner is that a large number of persons have been appointed as Apprentice Teachers and they are being paid fixed salary despite the fact that they are holding regular posts and are discharging duties similar to those of regular employees. In paragraphs 9 (a), (b) and (c) and 10 of his affidavit, Shri Mohd. Abid Ali, General Secretary of the petitioner has averred as under:

> "9(a). It is respectfully submitted that, from the past ten years, the respondents have made it a willful practice to name the selected candidate for recruitment to the post of teachers as apprentice teachers. For instance, in the year 1997, Sri Tayyab Pasha Quadri, one among many others, was informed, vide proceedings No.Rc.No.200/B1/97, dated -- 09 – 97, issued by the District Educational Officers, Hyderabad District that he has been selected provisionally for appointment as U.P.Gr.II (Urdu Pandit Grade II) on the basis of performance in written and oral test held for Special Recruitment of Urdu Teachers under District Selection Committee, 1997 and that appointment orders

will be issued to him on the spot on 22-09-1997 on production of all the requisite original certificates. A similar action has been taken by the D.E.Os. concerned in respect of all the other apprentice teachers also.

9(b). It is respectfully submitted that vide proceedings No.200/B1/97, dated 22-09-1997, issued by the District Educational Officer, Hyderabad District, Sri Tayyab Pasha Quadri was appointed on probation to Category of Class D and posted as Urdu Pandit Grade II at G.U.P.S. Yella Reddy Guda No.II and that he was appointed as apprentice for a period of two years with a payment of stipend of Rs.1200 per month during the first year and Rs.1500 per month during the second year, as prescribed in G.O.Ms.No.233, Education (Ser.III) Department, dated 28-7-1994. A similar action has been taken by the D.E.Os. in respect of all the other apprentice teachers also. It can be very well seen that the words “appointed on probation” clearly show that they are workers and not apprentices and hence they are required to be paid salary as per rules and not the stipend of Rs.1200/Rs.1500 during the first two years of service. The payment of only Rs.1200 and Rs.1500 as stipend is causing dissatisfaction among the teachers and if their grievances are not remedied, they are likely to be demoralized which would result in lowering the efficiency in teaching and the ultimate sufferers would be students. It is therefore necessary to safeguard their interest and rights.

9(c). It is respectfully submitted that after having received the appointment orders, as said in para 9 (b), Sri Tayyab Pasha Quadri submitted his joining report on 23-9-97 to the Head Master of G.U.P.S. Yella Reddy Guda-2, Hyderabad. The Head Master concerned, vide his endorsement dated 23-09-1997 on the joining report of Sri Tayyab Pasha Quadri, permitted him to join duty. A similar action has been taken by the concerned Head Masters in respect of all the other apprentice teachers also clearly show that they are workers and not apprentices and hence they are required to be paid salary as per rules and not the stipend of Rs.1200/Rs.1500 during the first two years of service. The payment of only Rs.1200 and Rs.1500 as stipend is causing dissatisfaction among the teachers and if their

grievances are not remedied, they are likely to be demoralized which would result in lowering the efficiency in teaching and the ultimate sufferers would be students. It is therefore necessary to safeguard their interest and rights.

10. It is respectfully submitted that the appointment of Sri Tayyab Pasha Quadri, as detailed in para 9(a), 9(b), 9(c) and 9(d) was made a regular Urdu Pandit and he discharged the duties of Urdu Pandit Grade II in the said school independently, although he was named as apprentice teacher. With an intention to deprive him from the regular salary of the prescribed grade to that post, he was wrongfully designated as apprentice teacher. The respondents have taken similar action in respect of all other apprentice teachers also. It clearly shows that they are workers and not apprentices and hence they are required to be paid salary as per rules and not the stipend of Rs.1200/Rs.1500 during the first two years of service, which is causing dissatisfaction among the teachers and if their grievances are not remedied, they are likely to be demoralized which would result in lowering the efficiency in teaching and the ultimate sufferers would be students. It is therefore necessary to safeguard their interest and rights."

We have heard Sri Mohammed Abid Ali, Advocate, who is also the Secretary of the petitioner Federation and perused the record. In our opinion, the writ petition is liable to be dismissed summarily because,

i) The petitioner has not placed any document before the Court to substantiate its locus to represent the cause of those who applied for recruitment as Teachers pursuant to advertisement dated 16-5-2006 issued by respondent No.2 and those who are working as Teachers (Apprentices) on different posts and are being paid fixed salary.

ii) In the affidavit filed by him, Sri Mohammed Abid Ali

has neither averred that the petitioner is a registered body nor the certificate of registration has been placed before the Court. The constitution of the petitioner has also not been produced before the Court to show that it can espouse the cause of those who applied for recruitment and those who are presently working as Apprentice Teachers and are being paid fixed salary.

iii) The petitioner has neither averred nor any material has been produced before the Court to show that the Apprentice Teachers or the would-be Teachers are, on account of ignorance, poverty or such other disability, unable to seek redressal of their grievance in the matter of appointment against the advertised posts or in the matter of payment of salary in the regular time scale.

iv) If the serving Apprentice Teachers and/or those who applied for recruitment were to directly file a writ petition, the same would have been dismissed in view of the bar contained in Section 28 of the Administrative Tribunals Act, 1985. Therefore, in the guise of public interest litigation, the petitioner cannot be allowed to bypass the statutory embargo on the entertaining of writ petition filed in relation to service matters. In this connection, we may usefully refer to the judgment of the Supreme Court in **Guruvayoor Devaswom Managing Committee v. C.K. Rajan**[1].

In the result, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, WPMP.No.10553 of 2007 filed by the petitioner for interim relief is disposed of as

infructuous.

G.S.SINGHVI, C.J.

20th April, 2007

C.V.NAGARJUNA REDDY, J.

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[1] (2003) 7 SCC 546